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**Written submission from the
Algonquins of Ontario**

**Mémoire des
Algonquins de l'Ontario**

**Regulatory Oversight Report for
Canadian Nuclear Laboratories
Sites: 2019**

**Rapport de surveillance
réglementaire des sites des
Laboratoires Nucléaires
Canadiens : 2019**

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Photo Source: Canadian Nuclear Laboratories

AOO Technical Review of the Canadian Nuclear Safety Commission Regulatory Oversight Report for Canadian Nuclear Laboratories Sites: 2019



Algonquins of Ontario

November 16, 2020

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1.0 Introduction

The Algonquins of Ontario (AOO) are conducting a technical review of the Canadian Nuclear Safety Commission's (CNSC) Regulatory Oversight Report (ROR) for Canadian Nuclear Laboratories Sites: 2019 which documents the CNSC staff's assessment of licensee performance at sites that are licensed to Canadian Nuclear Laboratories (CNL). Two of CNL's sites in the ROR operate in the AOO Settlement Area, these include Chalk River Laboratories (CRL) and Nuclear Power Demonstration (NPD) Waste Facility.

The AOO have an interest in ensuring that the operations at CRL and NPD occur in a responsible manner that manages risks, safeguards the environment, protects health and safety, and respects the Aboriginal Rights and Title of the AOO. This written submission to the CNSC provides a summary of the ROR, background on CRL and NPD sites, review findings, information requests, and comments and accommodations. We also outline several Algonquin practices and teachings that are fundamental to understanding the core issues that we have raised. We want to know that you understand who we are. This understanding is essential to any meaningful engagement on this matter. Finally, we provide recommendations for on-going consultation between the AOO and the CNSC moving forward.

The AOO are using this opportunity to put forth our perspectives and are speaking to how processes can be more inclusive of our perspectives and our involvement, and we appreciate the opportunity being provided by the CNSC to engage in this matter.

1.1 Algonquins of Ontario Overview

The Algonquins of Ontario (AOO) are on a journey of survival, rebuilding and self-sufficiency – a journey of reconciliation. This journey began nearly 250 years ago when the first Algonquin petition was submitted to the Crown in 1772.

The Algonquins lived in present-day Ontario for thousands of years before Europeans arrived. Their territory originally extended from the St. Lawrence River to the French River in the west, south to the Adirondack mountains in New York State, and north above Lake Abitibi. Over the past several hundred years, the description of the AOO Settlement Area has changed to be the lands and waters on both sides of the Ottawa River watershed from modern Hawkesbury to Lake Nipissing and north past the headwaters of the Ottawa River. Today, the following ten Algonquin communities comprise the Algonquins of Ontario:

- The Algonquins of Pikwakanagan First Nation
- Antoine
- Kijicho Manito Madaouskarini (Bancroft)
- Bonnechere
- Greater Golden Lake
- Mattawa/North Bay



- Ottawa
- Shabot Obaadjiwan (Sharbot Lake)
- Snimikobi (Ardoch)
- Whitney and Area

Based on a protocol signed in 2004, these communities are working together to provide a unified approach to negotiate a modern-day treaty. The AOO land claim includes an area of nine million acres within the watersheds of the Kichi-Sibi¹ (Ottawa River) and the Mattawa River in Ontario. The majority of Algonquin Provincial Park lies within the Ottawa River watershed and thus within the AOO Settlement Area.

The Algonquins of Pikwakanagan First Nation (known at the time as the Algonquins of Golden Lake) commenced the land claim by formally submitting the most recent petition with supporting research to the Government of Canada in 1983 and the Government of Ontario in 1985. The Province of Ontario accepted the claim for negotiations in 1991 and the Government of Canada in 1992. Since then the negotiations, which are intended to culminate in an Algonquin Treaty, have grown to include ten communities that comprise the AOO.

The Algonquin Negotiation Team consists of the Chief and Council of the Algonquins of Pikwakanagan First Nation, who are elected under the Pikwakanagan Custom Election Code, and one representative from each of the nine other Algonquin communities, each of whom is elected by the enrolled Algonquin voters of each community for a three-year term.

The unceded AOO Settlement Area, shown in Figure 1 below, includes an area of more than nine million acres within the watersheds of the Kichi-Sibi and the Mattawa River in Ontario, unceded territory that covers most of eastern Ontario, including Ottawa and most of Algonquin Provincial Park. More than 1.2 million people live and work within the unceded AOO Settlement Area. There are 84 municipal jurisdictions fully and partially located within the unceded AOO Settlement Area, including 75 lower- and single-tier municipalities and nine upper-tier counties.

¹ *The Ottawa River, otherwise known as the Big River, has also been referred to in the Algonquin language as “Kichi-Sibi,” “Kichissippi” “Kitchissippi” and “Kichisippi.”*



Algonquins of Ontario Settlement Area Boundary

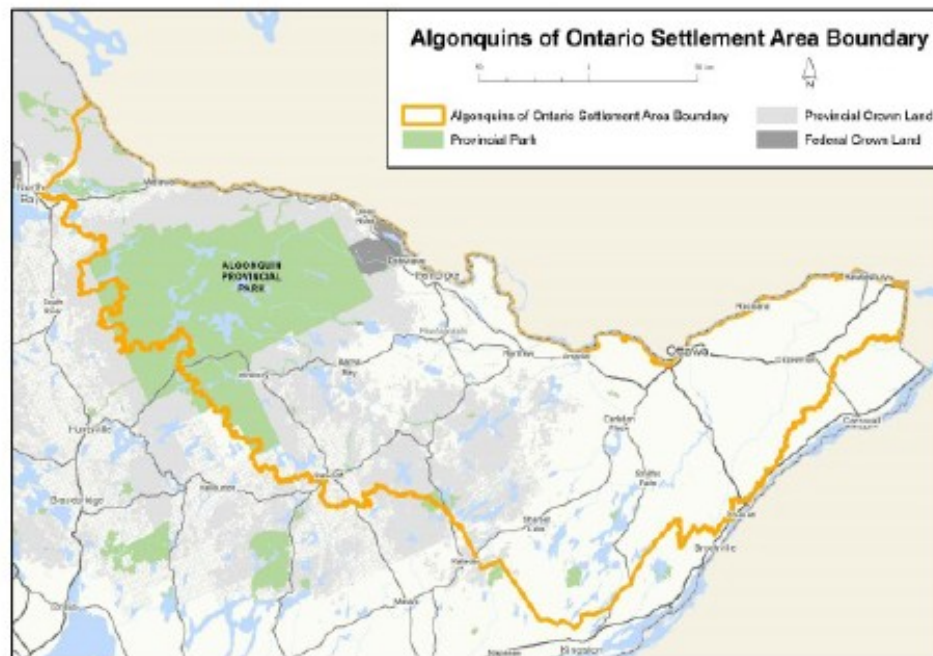


Figure 1: Algonquins of Ontario Settlement Area Boundary (Source: Algonquins of Ontario)

1.2 Algonquins Values and Teachings

Today, Algonquins in Ontario share a history of common interests, traditions and needs arising from our common heritage. In the following section, we will outline several Algonquin practices and teachings that are fundamental to putting this consultation and accommodation protocol in context.

In developing these comments, we have been guided by the spirit and intent of the Teachings of the Seven Grandfathers. These teachings have been passed down from generation to generation and continue to be practiced today:

- Honesty (Kwayakoziwin): Honesty in facing a situation is to be brave;
- Humility (Tabasenindizowin): Humility is to know yourself as a sacred part of Creation;
- Respect (Manàdjiyàn): To honour all Creation is to have Respect;
- Bravery (Sòngideyewin): Bravery is to face the foe with integrity;
- Wisdom (Nibwàkàwin): To cherish knowledge is to know Wisdom;
- Love (Sàgihidiwin): To know Love is to know peace; and



- Truth (Tebwewin): Truth is to know all of these things

Our survival on this land for thousands of years required us to apply our teachings to ensure the protection of the lands and waters upon which we rely. These teachings serve as the original instructions or “natural laws” that were built into our way of life. “Sustainability” is a modern term, but sustainability was long in practice by our people and our ancestors. There were consequences that occurred when we strayed from our natural teachings, instructions, and laws. We were constantly monitoring the environment and if changes occurred, we would adapt. It was (and is) a matter of survival. We had, and continue to have, deep connections to the land.

Some examples of teachings related to the protection of the environment of today and yesterday include the following:

- Harvest one area for one season then move on elsewhere so the area that has been recently harvest can replenish.
- Be conscious of where your feet touch the ground (even as an individual, we can have impacts on the land).
- We are stewards of the land and have a responsibility to protecting the lands and waters.
- Show love for all aspects of the environment, down to the smallest part.
- We are all a part of nature – we are all equal.

Protection and interaction with the lands and waters of our territory have been central to our existence for thousands of years. We maintained this connection to the land in spite of the arrival of Europeans to our territory. However, their arrival dramatically impacted our way of life.

Harvesting of flora and fauna for food and trade has been integral to the Algonquin way of life since time immemorial. These practices embody an inherent respect for the environment and a fundamental commitment to the sustainable management of resources which have been passed from generation to generation.

The rights of Aboriginal people in Canada to engage in traditional activities, including the harvesting of wildlife, fish, migratory birds and plants, is recognized by the Constitution Act, 1982 and upheld by the Supreme Court of Canada. As stewards of our ancestral lands, the AOO recognize the importance of exercising this right in a responsible manner.

In 1991, the Algonquins of Golden Lake (Pikwakanagan) took a ground-breaking step with the establishment of its first Hunting Agreement which lead into the development of today’s AOO Harvest Management Plan (HMP) for Algonquin Park and the Wildlife Management Units (WMU) within the Algonquin Territory in Ontario. The Harvest Management Plan is a living document, which is reviewed annually and updated as new information becomes available. Its primary purpose is to clearly articulate the framework in which the Algonquin harvest is conducted by Algonquin harvesters. In particular, the Harvest Management Plan contains clear provisions which specify the season and the geographic locations in which harvesting can occur, what the Sustainable Harvest Target is to be and who is eligible to participate.



Each year, the AOO establishes its Sustainable Harvest Targets for moose and elk for both Algonquin Park and each WMU for the Algonquin Harvest. These Sustainable Harvest Targets are established with input from the Ontario Ministry of Natural Resources and Forestry (MNRF) and are based upon data that addresses wildlife conservation and the sustainability of wildlife populations. The AOO is the one of the first Aboriginal groups in Canada that has voluntarily enacted these types of harvest management practices.

In order to harvest moose and elk under the auspices of the AOO, eligible Algonquins have agreed to participate in a draw-based tag system that is coordinated by the ten individual AOO communities.

Our tradition of collectively sharing food and resources has been practiced by the Algonquins for millennia. In preservation of this long-held tradition, the sharing of food and resources continues to be commonly practiced today providing meat to Elders and other community members that are unable to participate in the harvest.

Despite such efforts as the Harvesting Agreement, we are now in great competition with many others on this land for the resources that are here.

2.0 AOO Rights and Interest and the CNSC ROR on CNL Sites: 2019

2.1 Historical Context

As previously mentioned, CNL's CRL and NPD sites are located fully within the AOO Settlement Area where the AOO asserts unextinguished Aboriginal Rights, Title, and interests. Located directly on the shores of the Kichi-Sìbi, the CRL and NPD sites overlap and directly impact this culturally significant area to Algonquins for historical and contemporary land use and exercise of rights.

The AOO Settlement Area has been impacted by Crown decisions to locate and operate uranium and nuclear processing facilities since the Second World War. The Chalk River, Ontario site was established by the Crown in 1944 to move nuclear research facilities from urban Montreal to a remote area with abundant access to water. A new community was built at Deep River, Ontario, to provide residences and facilities for the Chalk River team members. The site was chosen for its proximity to the industrial manufacturing area of Ontario and Quebec and proximity to a rail head adjacent to a large military base, Camp Petawawa. A pilot reactor known as ZEEP (zero-energy experimental pile) became the first Canadian reactor, and the first to be completed outside the United States, when it went critical in September 1945. ZEEP remained in use by researchers until 1970. A larger 10 MW National Research Experimental (NRX) reactor, which was designed during the Second World War, was completed and went critical in July 1947 (Canadian Science and Technology Museum, 2014).

At the time of the Crown decisions to establish and operate these first nuclear facilities in the unceded Algonquin Traditional Territory, the Crown did not consult with the AOO or provide accommodation for impacts to the AOO's Rights and interests. These Crown decisions resulted in an accumulation of nuclear reactors, research facilities, uranium containing materials, and nuclear processing facilities within the AOO Settlement Area. The Crown's activities, via Atomic Energy of Canada Limited (AECL) and its



contractor, continue today, with impacts that will continue for many thousands of years. These impacts are irreversible.

2.2 Treaty Negotiations and Long-Term Relationship Agreements

With the CRL and NPD sites being contemplated for several nuclear projects that are at varying stages of the impact assessment process (e.g., CNL's Near Surface Disposal Facility, Global First Power's Micro-Modular Reactor, and CNL's decommissioning of NPD), the cumulative impacts of historic, ongoing, and future nuclear activities are of concern to the AOO.

Understanding the status and outcomes of regulatory oversight activities at CRL and NPD is critically important for the AOO given ongoing Treaty negotiations and the AOO's participation in various impact assessment processes for proposed projects on these sites. With respect to Treaty negotiations, the CRL and NPD sites either overlap or are in close proximity to lands that have been identified as proposed settlement lands. Given that these lands will be owned fee simple absolute by the AOO, the comments and recommendations provided in this submission should be seriously considered and implemented to support Crown-AOO's mutual interests in advancing Treaty negotiations.

Further, as the most deeply impacted Indigenous group by ongoing and future nuclear activities at CRL and NPD sites, the AOO are seeking mutually agreeable partnerships with CNSC, CNL and any other proponents that may pursue projects at CNL sites in the AOO Settlement Area. As primary stewards of the lands and waters overlapping and surrounding the CNL and NPD sites, the AOO seek to build collaborative relationships that clearly outline how the parties will work together to ensure impacts on the AOO's constitutionally protected rights and interests are avoided, mitigated, and accommodated and that the AOO equitably benefit from project activities.

From the AOO's perspective, long-term relationship agreements (LTRAs) are a valuable mechanism to honour the intent of the Government of Canada's principles respecting its relationship with Indigenous Peoples,² specifically principle 6: *The Government of Canada recognizes that meaningful engagement with Indigenous peoples aims to secure their free, prior, and informed consent when Canada proposes to take actions which impact them and their rights, including their lands, territories and resources.*

The AOO, CNL, and AECL have made encouraging progress toward a long-term relationship agreement to advance the above objectives over the last year and the AOO maintains that CNSC should not make any final decisions until an agreement is concluded. We hold the same expectation of Global First Power and any decisions associated with the Micro Modular Reactor Project. With regards to a long-term relationship with CNSC, we appreciate the efforts by CNSC staff to be flexible and open to developing a consultation process that balances the AOO's interests in being deeply consulted on proposed projects in the AOO Settlement Area with current operational realities. However, given the mounting volume of projects in the AOO Settlement Area that require consultation with other government agencies, the AOO are having to develop and engage in multiple and varying processes. We highly recommend and

² <https://www.justice.gc.ca/eng/csj-sjc/principles-principes.html>



encourage various government agencies to work together with the AOO to develop a one-window approach to consultation and engagement.

3.0 Summary of the Regulatory Oversight Report

The ROR for *CNL Sites: 2019* is a Commission member document (CMD) that presents the CNSC staff's assessment of licensee performance at sites that are licensed to CNL in the 2019 calendar year (CNSC, 2020). In order to assess the safety performance of CNL, the CNSC conducts regulatory oversight activities consisting of onsite inspections, technical assessments, reviews of reports submitted by CNL, reviews of events and incidents, and general communication with CNL (CNSC, 2020).

This report also provides an update on CNSC staff's activities related to public information, engagement with Indigenous communities, reportable events, and areas of increased regulatory focus. The report provides CNSC staff's assessment of the safety performance of CNL Sites in 2019. The report focuses on three safety and control areas (SCAs): radiation protection, environmental protection, and conventional health and safety (CNSC, 2020).

CNSC has confirmed that CNL sites performed their licensed activities safely in 2019, and their performance related to each of the fourteen SCAs have been rated as "satisfactory" for both the Chalk River Laboratories (CRL) and Nuclear Power Demonstration (NPD) sites. In summary, CNSC has determined that the health and safety programs in place protect the workers at each site, environmental protection programs are effective in protecting both people and the environment, and radiation protection programs have controlled radiation exposure to keep doses as low as reasonably achievable (CNSC, 2020).

In 2019, CNSC staff spent over 33,500 cumulative hours working on licensing and compliance activities for CNL sites, including 14,500 hours performing desktop reviews and technical assessments of licensee documents and 2,900 hours conducting inspections. In February 2019, CNSC staff revised the licence conditions handbook (LCH) for CRL and issued a new LCH for NPD in April of 2019. CNSC uses the number of recordable lost-time injuries that occur per year, along with their severity and frequency, as key performance indicators for conventional health and safety. In 2019, there was 1 recordable lost-time injury at CRL and none at NPD (CNSC, 2020).

At many of the sites covered by the ROR, CNL's activities include the generation, storage, and management of radioactive wastes. According to the report, CNL has pursued accelerated decommissioning at many of its sites, which has resulted in either actual or planned increases in the rate of radioactive waste generation (CNSC, 2020).

Overall, CNSC concluded that the environmental protection programs at all CNL sites were effective in 2019 for protecting the environment, that radiation protection programs at CNL sites control radiation exposures to be as low as reasonably achievable, and conventional health and safety programs at CNL sites protect workers (CNSC, 2020).

3.1 Chalk River Laboratories

CRL operates under a single licence that includes Class I and Class II nuclear facilities, a waste management area, radioisotope laboratories, along with support facilities and offices. Throughout the



site, which is located approximately 160 kilometres northwest of Ottawa, CNL is shutting down and decommissioning old facilities and constructing replacements. Also, at the CRL site CNL is proposing to construct and operate a Near-Surface Disposal Facility (NSDF), and Global First Power is proposing a small modular reactor. Both proposed projects will be subject to environmental assessments (CNSC, 2020).

In 2019, the International Atomic Energy Agency (IAEA) found no significant issues at CRL when verifying nuclear material inventories to assure the absence of undeclared nuclear material and activities. CNL continues to return fuel and liquid highly enriched uranium (HEU) to the United States, and in 2019 completed six shipments (CNSC, 2020).

In 2019, CNL reported a total of three action level exceedances for releases of radioactive substances to air at CRL. Two of the exceedances were related to the transfer of waste bags with higher than normal quantities of tritium during adjacent weeks, and the third exceedance was due to internal cross contamination from a higher activity cell to a lower activity cell at the Universal Cells facility. CNSC staff have assessed that the risk to both the public and the environment from these exceedances is negligible. There was also an exceedance of total suspended solids at the B1425 Sanitary Sewage Treatment Facility effluent at CRL in 2019.

3.1.1 Highlights from the Regulatory Oversight Report

- “At all CNL sites, airborne and waterborne releases of radioactive and hazardous substances remained below their respective regulatory limits in 2019.”
- “At no point during 2019 did the emissions from the CRL site exceed the constraint for dose to the public of 0.30 mSv/year indicated in the CRL LCH.”
- “In 2019, no worker received a radiation dose in excess of the CNSC regulatory dose limits. The maximum dose received by a NEW at CNL sites was at CRL, with a dose of 8.23 mSv, which is approximately 16 percent of the regulatory limit for effective doses of 50 mSv in a one-year dosimetry period.”
- “In 2019, there were two Event Initial Reports which were both presented to the Commission on February 20, 2019 [...] Power Outage on February 3, 2019 at Chalk River Laboratories, presented to the Commission in CMD 19-M19. CNL determined that the power outage was the result of an electrical malfunction of a 2400V distribution cable. CNSC staff reviewed CNL’s Root Cause Analysis for this event and found it to be a thorough assessment of the root causes of the event, which relate to aging infrastructure at the CRL site. CNSC staff also assessed that CNL’s corrective and remedial actions will reduce the risk of a similar event in the future, and the consequences of such an event should one occur. CNSC staff performed an inspection at CRL in March 2020 that followed up on the site-wide power outage that confirmed the implementation of CNL’s corrective actions.”
- “In 2019, CNSC staff conducted independent environmental monitoring around the CRL, DP, PHP, and PGP sites. IEMP results for the areas surrounding these sites indicate that the public and the environment in the vicinity of these sites are protected.” (CNSC, 2020)



3.2 Nuclear Power Demonstration Waste Facility (NPD Site)

NPD is a partially decommissioned prototype CANDU power reactor located in Rolphton, Ontario. CNL manages low- and intermediate-level radioactive wastes at the NPD site. CNL submitted an application to the CNSC to modify their proposed decommissioning approach for NPD to in situ decommissioning in attempts to accelerate the decommissioning process, which is currently under review by the CNSC and subject to an environmental assessment (CNSC, 2020).

3.2.1 Highlights from the Regulatory Oversight Report

- “CNSC staff continue to be satisfied with the level and quality of Indigenous engagement conducted by CNL with regards to its operations and proposed projects at its different sites. CNSC staff encourages CNL to continue to remain flexible and responsive to the requests and needs of the communities that have an interest in its sites, facilities and proposed projects.”
- “NPD is no longer discharging liquid effluents from the facility sumps to the Ottawa River, and there were no such releases during the 2019 reporting period. All other releases of radioactive material in NPD effluents are a small fraction of their respective DRLs and thus, continue to indicate minimal impact on the public or the environment.” (CNSC, 2020)

4.0 Review Findings

As part of the AOO’s review of the ROR for CNL Sites: 2019, the AOO has put forward a series of information requests to CNSC and CNL to clarify and provide additional information where necessary. The AOO has also provided a set of comments and accommodations for the CNSC and CNL to consider following the review of the ROR.

4.1 Information Requests

The AOO submits the following information requests to the CNSC to clarify or seek additional information on various topics included in the ROR.

#	ROR Reference	Information Request
1	Section 3.2 “CNL continued fuel and liquid HEU repatriation activities, with six shipments completed.”	Please provide additional information regarding approximately how much additional HEU CNSC is expecting to repatriate to the United States in future years.
2	Section 4.1 “As part of annual reporting to the CNSC, CNL provides data on dose to a hypothetical member of	Please clarify what sort of considerations, if any, CNL has made to ensure that the dose to a hypothetical member of the public is also protective of AOO members who may use the lands and waters in



	the public that is representative of someone who spends considerable time in proximity to the licensed site.”	proximity to the licensed sites more extensively and in different ways than members of the public – including AOO members who may work on the sites, and also conduct traditional activities adjacent to the sites, or be part of AOO monitoring or cultural heritage activities at the sites.
3	Section 5.1 “CNSC staff reviewed CNL’s Root Cause Analysis for this event and found it to be a thorough assessment of the root causes for the event, which relate to aging infrastructure at the CRL site.”	In the description of this Event Initial Report, CNSC indicates that their staff have assessed that CNL’s corrective and remedial actions will reduce the risk of a similar event in the future. The report description points to aging infrastructure at the CRL site as the root cause of the event. Please indicate how CNL will take corrective and remedial actions beyond the specific scope of distribution cables to prevent other incidences related to “aging infrastructure”.
4	Appendix A. List of Inspections at CNL Sites in 2019	The “List of Inspections at CNL Sites in 2019” provides a table documenting the inspections and correlating SCAs that were evaluated for each CNL site, except for the NPD site. Please clarify whether any inspections occurred at the NPD site in 2019, and if not, please provide an explanation why along with how the site was evaluated without information pertaining to SCA evaluations.
5	Appendix E. Estimated Dose to the Public “All other releases of radioactive material in NPD effluents are a small fraction of their respective DRLs and thus, continue to indicate minimal impact on the public or the environment [...] CNSC staff have determined that the public dose from NPD remains at a very small fraction of the public dose limit.”	Despite CNSC stating that the releases are “a small fraction of their respective DRLs” and “continue to indicate minimal impact,” the AOO would like to see the current (2019) and historical maximum effective doses. Presenting overarching statements without providing supporting data, as well as suggesting that CRL’s off-site environmental monitoring program could be considered for the public dose from NPD, exhibits a lack of transparency in communication and information sharing specific to the NPD site. Please provide the estimated public doses specifically for the NPD site.
6	Section 5.5	The CNSC states that, as part of the Independent Environmental Monitoring Program (IEMP), “In 2019, CNSC staff conducted independent environmental monitoring around the CRL, DP, PHP and PGP sites.” and provides a link to access the sampling results. The link provided only includes the 2015, 2013, and 2012 sampling results. Please provide the 2019 sampling results for the AOO’s review.



4.2 Comments and Accommodations

The AOO submits the following comments and recommendations to the CNSC following the review of the ROR.

Comment 1: Section 4.1 – The CNSC has indicated that the CNL has implemented an environmental monitoring program at its facilities, and that this program protects the environment and the public.

Accommodation 1: The AOO have played a role as guardians of the lands and waters since time immemorial. The AOO request that the CNSC provide appropriate resources for training and staffing to expand the Kichi-Sibi Guardians program so that they can contribute to the third-party oversight of CNL’s activities from a holistic Algonquin worldview.

Comment 2: Section 5.4 – The report indicates that there is an upcoming meeting for the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management in May of 2021, along with the release of Canada’s seventh national report in the spring of 2021.

Accommodation 2: The AOO requests that CNSC provide opportunities for active Algonquin involvement and engagement in the upcoming meeting and reports related to radioactive waste management.

Comment 3: Section 5.5 – The report indicates that as part of the IEMP, CNSC staff conducted monitoring around the CRL, DP, and PGP sites in 2019. The AOO commends the CNSC for the inclusion of AOO staff and Algonquin Knowledge into the IEMP sampling program at the NPD site in 2018 but notes that the NPD site was not sampled during 2019.

Accommodation 3: The AOO recommends that the IEMP continue to engage the AOO for future sampling at CRL and NPD. The AOO must have input and involvement in all IEMP sampling efforts within the AOO Settlement Area.

To facilitate this, the AOO recommends the following:

1. Where possible, CNSC’s IEMP should coordinate with the AOO to integrate the Kichi-Sibi Guardians Program into IEMP sampling in the AOO Settlement Area.
2. A formal protocol be developed between the AOO and CNSC around involvement in the IEMP.
3. Capacity funding be provided for the AOO to define a list of Valued Components of the environment that can be sampled as part of the IEMP.

5.0 Algonquin Knowledge and Cultural Heritage Considerations

To inform accommodations related to Algonquin Knowledge and cultural heritage considerations, an interview with the AOO’s archaeological specialist Ken Swayze (Nippising University and Kinickinick



Consulting) was conducted on October 19, 2020. As a result of this interview the following accommodation is provided:

Accommodation 4: To further assist the AOO in developing its internal capacity to actively engage in the monitoring and oversight activities associated with CNSC-regulated facilities within the AOO Settlement Area, the CNSC should provide resources for the development of an AOO-specific Sustainable Archeological Research Program (SARP). The SARP would build capacity within the AOO’s liaison program and provide technical training opportunities for Kichi-Sibi Guardians to be able to undertake Stage 1 site assessments and conduct reviews of archeological assessment reports associated with CNSC-regulated facilities. This program could be launched in collaboration with the Nipissing University (NU) Anthropology Department, which currently offers a Certificate Program in Archeology that is aimed at engaging Algonquin students. The NU program offers portable courses that can be delivered off-campus, raising the possibility that the Chalk River Laboratories could be utilized as a learning site. Further accredited courses on special topics could be included as needed and the site could host a museum exhibit that would showcase the human, environmental, and geological history of the property.

6.0 Recommendations for the AOO’s Participation in Regulatory Activities in the Settlement Area

As mentioned in previous reviews of the CNSC’s RORs, the AOO acknowledges and commends the CNL and the CNSC for their commitment to improve the level of consultation and engagement with the AOO. The AOO strongly supports continued efforts to strengthen and formalize these relationships that we hope will enable the AOO to play a meaningful role in the CNSC’s oversight of CNL sites within the AOO Settlement Area.

As in previous reviews of RORs, the AOO recommends that the CNSC integrate the following accommodation measures into their regulatory oversight regime:

- Further opportunities for significant participation by the AOO;
- Involvement of the AOO in the ongoing environmental, cultural heritage, and human health monitoring in and around CNSC-licensed facilities and transportation routes;
- Accessible information for Indigenous Peoples, including Algonquin citizens, including communications protocols for informing communities about regulatory oversight participation opportunities, incidents such as spills, accidents, or malfunctions, and involvement in emergency planning and response;
- A framework for addressing the cumulative effects of CNSC-regulated projects and other activities in a region that affect the AOO’s Rights and interests across the unceded AOO Settlement Area;



- Collaborative decision-making with the AOO, based on nation-to-nation relationships and the obligation to secure free, prior, and informed consent. This decision making must recognize and strengthen the jurisdiction that the AOO have with respect to the environment and culture; and
- Rules and criteria to encourage transparency, accountability, and credibility and to encourage good science and Indigenous Knowledge-based decisions.

While the AOO continues to advocate that the CNSC implement the above considerations, the regulator needs to take into account the capacity constraints within the AOO's administration that precludes actual, significant participation in the CNSC's oversight of the many facilities within the AOO Settlement Area. The AOO has a limited budget and small staffing contingent that are put under tremendous stress by continuous piecemeal requests for consultation and engagement by a myriad of project proponents and governments. As a result, many of the opportunities being made available to the AOO via improved relations with the CNSC cannot be actualized in a way that honors the nation-to-nation principles articulated by the Government of Canada.

The unique circumstances that bring together the AOO and CNSC are without precedence in Canada. In addition to uranium and nuclear substance processing facilities in the Ottawa and Pembroke regions, the AOO's Settlement Area is home to CNL's Chalk River Laboratories, arguably Canada's most important nuclear research and development site. The site is undergoing a revitalization of essential site infrastructure, the decommissioning of aging infrastructure, and a significant investment in new science facilities. Nuclear technology is increasingly being positioned as a leading source of energy as economies shift away from their reliance on fossil fuels. As a result, the importance of the Chalk River Laboratories to Canada's energy transition will undoubtedly continue to grow. The AOO believes that this unique context should be reflected in the evolving relationship with the CNSC and as such, proposes the following additional considerations:

Accommodation 5: To reduce the burden that multiple and repeated interactions with proponents of CNSC-regulated facilities place on the capacity of the AOO, the CNSC should adopt a 'one window approach' through which all CNSC-regulated site-specific engagement, consultation, and oversight activities are convened. This approach should include stable funding to ensure the AOO's effective participation in consultation processes and oversight reviews as opposed to the current piecemeal approach. Additionally, a 'one window approach' would lead to the formalization of the recommendations the AOO has provided to the CNSC in previous reviews of RORs.

Accommodation 6: In considering the unique relationship described above and the associated recommendations, the CNSC and the AOO should co-develop a Terms of Reference (TOR) with the intention of initiating a joint advisory and monitoring committee as it relates to CNSC-regulated facilities in the AOO Settlement Area. Advisory and monitoring committees have been deployed on major projects in western Canada (i.e., Trans Mountain Expansion, Enbridge Line 3 Replacement Program) to:

- Support the effective and active participation of the AOO in the monitoring of traditional, environmental, safety, and socio-economic aspects of major projects;
- Enable a reciprocal exchange of information relating to traditional, environmental, safety, and socio-economic aspects of major projects; and



- Provide a collaborative forum, supported with resources for the AOO, regulators, and governments to enhance the environmental protection and safety of major projects.
- In collaboration with the AOO, the CNSC should assess existing examples of co-developed TORs for advisory and monitoring committees and develop a distinct model that reflects the unique relationship between the AOO and CNSC, the on-going treaty negotiation process, and a nation-to-nation relationship based on recognition of rights, respect, co-operation, and partnership.

The above recommendations provide workable examples of how the emerging partnership with the CNSC can be a catalyst for much needed capacity building within the AOO, formalize previous recommendations within a framework of accountability, and set a new standard for nation-to-nation relationships between Indigenous peoples and federal regulators. The AOO looks forward to advancing discussions related to the above recommendations in its ongoing engagement with the CNSC.

7.0 Conclusion

In concluding a technical review of the CNSC's RORs for Canadian Nuclear Laboratories Sites: 2019, the AOO has included a series of information requests, comments, and accommodations for the consideration of the CNSC and CNL. The AOO has also included recommendations that it would like the CNSC to consider as it contemplates its evolving relationship with the Algonquin people and the development of best practices in the regulation of facilities in the AOO Settlement Area.

As a next step, the AOO and our elected Algonquin Negotiation Representatives respectfully request that the CNSC provide a response to the accommodations and recommendations noted above. We also request that the CNSC and the Crown provide an opportunity for the AOO to review and comment on any new policy, legislation, or guidance that seeks to implement the accommodations and recommendations we provided above.

As mentioned, the AOO appreciates and values the relationship it has with the CNSC, CNL, and AECL and acknowledges the collaborative work to improve consultation with the AOO that has occurred over the past several years. As well, the AOO appreciates the opportunities provided for us to share our perspectives about the CNSC's regulation of these facilities in a way that promotes the health, well-being, and livelihood of Algonquin citizens.

8.0 Bibliography

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